

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN ORDER)
AUTHORIZING FUTUR TELECOM AMERICA, INC. TO)
PROVIDE COMPETITIVE FACILITIES-BASED)
LOCAL EXCHANGE AND INTEREXCHANGE LONG)
DISTANCE SERVICES THROUGHOUT NEW JERSEY)

ORDER

DOCKET NO. TE02090698

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and, by letter dated September 26, 2002, Futur Telecom America, Inc. ("Petitioner" or "Futur") respectfully filed a Petition with the Board of Public Utilities ("Board") requesting authority to provide competitive facilities-based local exchange and interexchange long distance services throughout the State of New Jersey.

Futur was incorporated under the laws of the State of Delaware on March 18, 1998. Petitioner's principal offices are located at 35 West 36th Street, 7th Floor, New York, New York 10018.

Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, Futur was formed to provide competitive facilities-based local exchange and interexchange long distance services. Petitioner indicates it is currently authorized to provide facilities-based and resold local service in one state (New York) and resold long distance (interexchange) in six states(California, Connecticut, Florida, Illinois, New York and Texas). Petitioner is also a reseller of local and long distance service through its agreement with Verizon New Jersey, Inc. ("Verizon NJ"). Futur has been successfully operating as a resale long distance carrier in New Jersey since 2000 (no BPU approval being required for resales). Futur is negotiating a UNE and interconnection agreement with Verizon NJ which will be filled with the Board upon signing.

In its Petition, Petitioner seeks authority to offer all forms of facilities-based competitive local exchange, exchange access and facilities-based interexchange long distance services throughout the state of New Jersey. Futur seeks statewide authority so that it may expand its service areas as market conditions warrant and as additional service areas become open to competition. Futur is requesting authority initially to provide facilities-based competitive local exchange access

services in New Jersey in exchanges served by Verizon NJ. Futur intends to provide competitive local exchange services through the purchase of unbundled network elements platforms ("UNE-P") as well as over its own facilities. In addition, Futur seeks statewide authority to provide facilities-based interexchange service. Futur proposes to offer facilities-based competitive local exchange and interexchange telecommunications services initially to business customers throughout the state. Local exchange services include basic local service, Centrex service, optional calling features and listing services. The Petitioner will offer these services in conjunction with its interexchange toll services, which include inbound and outbound interexchange telecommunications services to business customers, utilizing switched and dedicated access. Petitioner eventually will offer operator assisted services to its own customers. Petitioner initially proposes to offer service in the same territory as Verizon NJ. Futur also plans to offer packages consisting of local and long distance services. According to the Petition, service will be available 24 hours a day, 7 days a week and customers will receive a monthly billing along with a customer service phone number which is also available 24 hours a day, 7 days a week. Futur customers may call the company at its toll-free customer service number or they may contact the company in writing at the headquarters address. The toll-free number for local customers, 1-888-450-8309, will be printed on the customer's monthly billing statements.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8, N. J. A. C. 14:1-4.3 and 14:10 -1.16, which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts (USOA), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP) and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in New York, New York. Petitioner will provide access to its books and records and other information on its New Jersey operations at the request of the Board. In the unlikely event that Board staff would need to travel to New York to examine the Petitioner's books and records, the Petitioner will reimburse the staff's reasonable travel expenses.

Petitioner's provision of local service to customers will provide a competitive alternative to the public and it will promote, through competition, the efficient use of the local exchange telecommunications networks. Petitioner also asserts that approval of this Petition will benefit customers by having alternatives from which to choose from and provide general improvements in price, features and options that are generated by competitive pressures. Expedited approval will provide benefits to business customers in New Jersey and will allow the company to maintain its roll-out program in the northeast region of the United States on schedule.

With regard to its technical and managerial qualifications, Futur states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted a list of corporate officers and directors along with management profiles who, according to Futur, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Futur's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner has demonstrated it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide facilities based local exchange and interexchange long distance services throughout New Jersey subject to approval of its tariff and submission of pro forma financials for its New Jersey operations. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 03/06/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY

IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING
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LOCAL EXCHANGE AND INTEREXCHANGE LONG DISTANCE SERVICES
THROUGHOUT THE STATE OF NEW JERSEY
DOCKET NO. TE02090698

SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Stanislas de Magnienville, President Futur Telecom America, Inc. 35 West 36 th Street, 7 th Floor New York, New York 10018	5	Board's Staff: Walter P. Szymanski, Director Division of Audits Board of Public Utilities Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: James H. Laskey, Esquire Norris McLaughlin & Marcus, PA Attorneys At Law P.O. Box 1018 Somerville, NJ 08876-1018	6	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayers Advocate: Seema M. Singh, Esquire Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	7	Board's Staff: James F. Murphy, Chief Bureau of Revenue Requirements Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
4	Ratepayers Advocate: Ava-Marie Madeam, Esquire Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	8	Board's Staff – DAG: Peter Tanella Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box. 45029 Newark, New Jersey 07102